

AMENDED IN SENATE APRIL 6, 2010

AMENDED IN SENATE MARCH 3, 2010

SENATE BILL

No. 895

Introduced by Senator Huff

January 25, 2010

An act to amend ~~Section 13353.3~~ *Sections 13352.5, 13353.3, and 23247* of the Vehicle Code, relating to vehicles, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 895, as amended, Huff. Vehicles: driver's license: suspension.

(1) Existing law that will become operative on July 1, 2010, authorizes a person who has been convicted of specified driving under the influence (DUI) offenses and who has had his or her driving privilege suspended or revoked to apply to the Department of Motor Vehicles for a restricted driver's license, if certain conditions, including that the person has installed an ignition interlock device, are met.

Existing law requires the department to immediately suspend the driving privilege of a person if the person was driving a motor vehicle with 0.08% or more of alcohol in his or her blood, the person was under 21 years of age and had a blood-alcohol level of 0.01% or more, the person was driving a vehicle that requires a commercial driver's license and had 0.04% or more of alcohol in his or her blood, or the person was driving a motor vehicle when he or she was on probation for a specified DUI violation and had 0.01% or more of alcohol in his or her blood. If the person has been convicted of one or more separate DUI violations, has been administratively determined to have refused chemical testing, or has been administratively determined to have been driving with an excessive concentration of alcohol on a separate occasion, which offense

or occasion occurred within 10 years of the occasion in question, existing law requires the period of suspension to be one year.

This bill would require the one-year suspension to terminate if the person has been convicted of a violation arising out of the same occurrence and the person meets specified conditions, including that he or she is otherwise eligible for a restricted driver's license and installs an ignition interlock device for purposes of that restricted driver's license.

(2) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 13352.5 of the Vehicle Code, as amended*
2 *by Section 2 of Chapter 193 of the Statutes of 2009, is amended*
3 *to read:*

4 13352.5. (a) The department shall issue a restricted driver's
5 license to a person whose driver's license was suspended under
6 paragraph (3) of subdivision (a) of Section 13352, if all of the
7 following requirements have been met:

8 (1) Proof satisfactory to the department of enrollment in, or
9 completion of, a driving-under-the-influence program licensed
10 pursuant to Section 11836 of the Health and Safety Code, as
11 described in subdivision (b) of Section 23542 has been received
12 in the department's headquarters.

13 (2) The person submits proof of financial responsibility, as
14 described in Section 16430.

15 (3) The person completes not less than ~~90 days~~ *12 months* of
16 the suspension period imposed under paragraph (3) of subdivision
17 (a) of Section 13352. The ~~90 days~~ *12 months* may include credit
18 for any suspension period served under subdivision (c) of Section
19 13353.3.

20 (4) The person pays all applicable reinstatement or reissue fees
21 and any restriction fee required by the department.

22 (b) The restriction of the driving privilege shall become effective
23 when the department receives all of the documents and fees
24 required under subdivision (a) and shall remain in effect until the
25 final day of the original suspension imposed under paragraph (3)

1 of subdivision (a) of Section 13352, or until the date all
2 reinstatement requirements described in Section 13352 have been
3 met, whichever date is later.

4 (c) The restriction of the driving privilege shall be limited to
5 the hours necessary for driving to and from the person's place of
6 employment, driving during the course of employment, and driving
7 to and from activities required in the driving-under-the-influence
8 program.

9 (d) Whenever the driving privilege is restricted under this
10 section, proof of financial responsibility, as defined in Section
11 16430, shall be maintained for three years. If the person does not
12 maintain that proof of financial responsibility at any time during
13 the restriction, the driving privilege shall be suspended until the
14 proof required under Section 16484 is received by the department.

15 (e) For the purposes of this section, enrollment in, participation
16 in, and completion of an approved program shall be subsequent
17 to the date of the current violation. Credit shall not be given to any
18 program activities completed prior to the date of the current
19 violation.

20 (f) The department shall terminate the restriction imposed
21 pursuant to this section and shall suspend the privilege to drive
22 under paragraph (3) of subdivision (a) of Section 13352 upon
23 receipt of notification from the driving-under-the-influence
24 program that the person has failed to comply with the program
25 requirements.

26 (g) If, upon conviction, the court has made the determination,
27 as authorized under subdivision (b) of Section 23540 or subdivision
28 (d) of Section 23542, to disallow the issuance of a restricted
29 driver's license, the department shall not issue a restricted driver's
30 license under this section.

31 (h) A person restricted pursuant to this section may apply to the
32 department for a restricted driver's license, subject to the conditions
33 specified in paragraph (3) of subdivision (a) of Section 13352.
34 Whenever proof of financial responsibility has already been
35 provided and a restriction fee has been paid in compliance with
36 restrictions described in this section, and the offender subsequently
37 receives an ignition interlock device restriction described in
38 paragraph (3) of subdivision (a) of Section 13352, the proof of
39 financial responsibility period shall not be extended beyond the

1 previously established term and no additional restriction fee shall
2 be required.

3 (i) This section applies to a person who meets all of the
4 following conditions:

5 (1) Has been convicted of a violation of Section 23152 that
6 occurred on or before July 1, 1999, and is punishable under Section
7 23540, or former Section 23165.

8 (2) Was granted probation for the conviction subject to
9 conditions imposed under subdivision (b) of Section 23542, or
10 under subdivision (b) of former Section 23166.

11 (3) Is no longer subject to the probation described in paragraph
12 (2).

13 (4) Has not completed the licensed driving-under-the-influence
14 program under paragraph (3) of subdivision (a) of Section 13352
15 for reinstatement of the driving privilege.

16 (5) Has no violations in his or her driving record that would
17 preclude issuance of a restricted driver's license.

18 **SECTION 1.**

19 *SEC. 2.* Section 13353.3 of the Vehicle Code is amended to
20 read:

21 13353.3. (a) An order of suspension of a person's privilege to
22 operate a motor vehicle pursuant to Section 13353.2 shall become
23 effective 30 days after the person is served with the notice pursuant
24 to Section 13382 or 13388, or subdivision (b) of Section 13353.2.

25 (b) The period of suspension of a person's privilege to operate
26 a motor vehicle under Section 13353.2 is as follows:

27 (1) If the person has not been convicted of a separate violation
28 of Section 23103, as specified in Section 23103.5, or Section
29 23140, 23152, or 23153, or Section 191.5 or subdivision (a) of
30 Section 192.5 of the Penal Code, the person has not been
31 administratively determined to have refused chemical testing
32 pursuant to Section 13353 or 13353.1, or the person has not been
33 administratively determined to have been driving with an excessive
34 concentration of alcohol pursuant to Section 13353.2 on a separate
35 occasion, which offense or occurrence occurred within 10 years
36 of the occasion in question, the person's privilege to operate a
37 motor vehicle shall be suspended for four months.

38 (2) (A) If the person has been convicted of one or more separate
39 violations of Section 23103, as specified in Section 23103.5, or
40 Section 23140, 23152, or 23153, or Section 191.5 or subdivision

1 (a) of Section 192.5 of the Penal Code, the person has been
2 administratively determined to have refused chemical testing
3 pursuant to Section 13353 or 13353.1, or the person has been
4 administratively determined to have been driving with an excessive
5 concentration of alcohol pursuant to Section 13353.2 on a separate
6 occasion, which offense or occasion occurred within 10 years of
7 the occasion in question, the person's privilege to operate a motor
8 vehicle shall be suspended for one year, except as provided in
9 subparagraph (B).

10 (B) The one-year suspension pursuant to subparagraph (A) shall
11 terminate if the person has been convicted of a violation arising
12 out of the same occurrence and all of the following conditions are
13 met:

14 (i) The person is eligible for a restricted driver's license pursuant
15 to Section 13352.

16 (ii) The person installs an ignition interlock device as required
17 in Section 13352 for that restricted driver's license.

18 (iii) The person complies with all other applicable conditions
19 of Section 13352 for a restricted driver's license.

20 (3) Notwithstanding any other provision of law, if a person has
21 been administratively determined to have been driving in violation
22 of Section 23136 or to have refused chemical testing pursuant to
23 Section 13353.1, the period of suspension shall not be for less than
24 one year.

25 (c) If a person's privilege to operate a motor vehicle is
26 suspended pursuant to Section 13353.2 and the person is convicted
27 of a violation of Section 23152 or 23153, including, but not limited
28 to, a violation described in Section 23620, arising out of the same
29 occurrence, both the suspension under Section 13353.2 and the
30 suspension or revocation under Section 13352 shall be imposed,
31 except that the periods of suspension or revocation shall run
32 concurrently, and the total period of suspension or revocation shall
33 not exceed the longer of the two suspension or revocation periods.

34 (d) For the purposes of this section, a conviction of an offense
35 in any state, territory, or possession of the United States, the
36 District of Columbia, the Commonwealth of Puerto Rico, or the
37 Dominion of Canada that, if committed in this state, would be a
38 violation of Section 23103, as specified in Section 23103.5, or
39 Section 23140, 23152, or 23153, or Section 191.5 or subdivision

1 (a) of Section 192.5 of the Penal Code, is a conviction of that
2 particular section of the Vehicle Code or Penal Code.

3 *SEC. 3. Section 23247 of the Vehicle Code is amended to read:*

4 23247. (a) It is unlawful for a person to knowingly rent, lease,
5 or lend a motor vehicle to another person known to have had his
6 or her driving privilege restricted as provided in Section ~~13352 or~~
7 ~~23575, 13352, 23575, or 23700~~, unless the vehicle is equipped
8 with a functioning, certified ignition interlock device. ~~Any~~ A
9 person, whose driving privilege is restricted pursuant to Section
10 ~~13352 or 23575~~ 13352, 23575, or 23700 shall notify any other
11 person who rents, leases, or loans a motor vehicle to him or her of
12 the driving restriction imposed under that section.

13 (b) It is unlawful for any person whose driving privilege is
14 restricted pursuant to Section ~~13352 or 23575~~ 13352, 23575, or
15 23700 to request or solicit any other person to blow into an ignition
16 interlock device or to start a motor vehicle equipped with the device
17 for the purpose of providing the person so restricted with an
18 operable motor vehicle.

19 (c) It is unlawful to blow into an ignition interlock device or to
20 start a motor vehicle equipped with the device for the purpose of
21 providing an operable motor vehicle to a person whose driving
22 privilege is restricted pursuant to Section ~~13352 or 23575~~ 13352,
23 23575, or 23700.

24 (d) It is unlawful to remove, bypass, or tamper with, an ignition
25 interlock device.

26 (e) It is unlawful for any person whose driving privilege is
27 restricted pursuant to Section ~~13352 or 23575~~ 13352, 23575, or
28 23700 to operate any vehicle not equipped with a functioning
29 ignition interlock device.

30 (f) Any person convicted of a violation of this section shall be
31 punished by imprisonment in the county jail for not more than six
32 months or by a fine of not more than five thousand dollars (\$5,000),
33 or by both that fine and imprisonment.

34 (g) (1) If any person whose driving privilege is restricted
35 pursuant to Section 13352 is convicted of a violation of subdivision
36 (e), the court shall notify the Department of Motor Vehicles, which
37 shall immediately terminate the restriction and shall suspend or
38 revoke the person's driving privilege for the remaining period of
39 the originating suspension or revocation and until all reinstatement
40 requirements in Section 13352 are met.

1 (2) If any person who is restricted pursuant to subdivision (a)
2 or (l) of Section 23575 or Section 23700 is convicted of a violation
3 of subdivision (e), the department shall suspend the person's
4 driving privilege for one year from the date of the conviction.

5 (h) Notwithstanding any other provision of law, if a vehicle in
6 which an ignition interlock device has been installed is impounded,
7 the manufacturer or installer of the device shall have the right to
8 remove the device from the vehicle during normal business hours.
9 No charge shall be imposed for the removal of the device nor shall
10 the manufacturer or installer be liable for any removal, towing,
11 impoundment, storage, release, or administrative costs or penalties
12 associated with the impoundment. Upon request, the person seeking
13 to remove the device shall present documentation to justify removal
14 of the device from the vehicle. Any damage to the vehicle resulting
15 from the removal of the device is the responsibility of the person
16 removing it.

17 ~~SEC. 2.~~

18 SEC. 4. This act is an urgency statute necessary for the
19 immediate preservation of the public peace, health, or safety within
20 the meaning of Article IV of the Constitution and shall go into
21 immediate effect. The facts constituting the necessity are:

22 In order to make conforming changes to the Vehicle Code for
23 statutory provisions that will be operative on July 1, 2010, it is
24 necessary that this act take immediate effect.